IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 10281 of 2007(Y)

PETITIONER:

P.U.JAISON, S/O.UTHUPPU,
PULIKKOTTIL HOUSE, U.K.VILLA, IV/387 A,
LAKSHMI COLONY, MUNNAR, IDUKKI DISTRICT.

BY ADV. SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE

RESPONDENTS:

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1. THE ASSISTNAT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL MAJOR SECTION,
CHITHIRAPURAM- 685 565.

2. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION, CHITHIRAPURAM P.O.,
KATTAPPANA, IDUKKI DISTRICT.

BY ADV.SRI.JOSE J. MATHEIKAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ALONG WITH CONT.CASE (C)NO.792/2007 ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.10281 OF 2007-Y

& Cont. Case (C).No.792/2007-S

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Dated this the 5th day of June, 2007.

JUDGMENT

The petitioner was served with a bill for electricity charges on the basis that he had availed electricity connection for commercial purpose. He filed WP(C). Nos.21264/2004 and 14001/2005 which were disposed of by me on 18-1-2006 as per the judgment Ext.P3 in WP(C). No.10281/2007. It was then his stand that the building was kept idle without being put to use and it was essentially a place for him and his family to holiday. Those writ petitions were, therefore, disposed of directing that if the Board officials come to the conclusion that the building is being put to use for commercial purposes on payment basis, the petitioner could be mulcted with the liability for current charges on commercial rates. Thereafter, a mahazar was

drawn up by the Board officials in the presence of the independent witnesses and on the strength of the said mahazar, the officers concluded that the user is a commercial one. A perusal of the contents of the mahazar, Ext.P4 in WP (C).10281/07 would show that the building is a row of rooms with a veranda on the front-side and each room opens to that veranda. I am reading that mahazar only to notice that whatever be the nature of the user, those are not matters that could gain attention of the writ court, having regard to the disputes raised by the petitioner, to wit, that the building is not being put to use for commercial purpose. May be, the matter, in my view, requires an adjudication on disputed questions of facts to come to an appropriate conclusion as to the applicability of the appropriate tariff. That cannot, in my view, be had in a writ petition. That apart, under the scheme of the laws relating to the supply of electricity, the petitioner has adequate alternate remedy by way of appeals for adjudication as to the applicability of a tariff which is in dispute.

2. For the aforesaid reasons, in exercise of discretion,

I refuse to entertain this writ petition and the same is accordingly dismissed without prejudice to contentions of the petitioner on merits, in the event of the petitioner moving appropriate authorities or even competent courts to decide the matter.

3. Having regard to the view taken above, I do not find any case of wilful disobedience of the directions contained in the interim order pending the writ petitions that led to Ext.P3 judgment or flouting of the directions in that judgment. Under such circumstances, the contempt of court case also fails.

4. Without prejudice to whatever is stated above, if the petitioner pays the amounts due as demanded by the Board, the Board officials will consider re-connection and such payments by the petitioner could be subjected to further litigation as stated above.

In the result, the writ petition and the contempt of court case are dismissed without prejudice to whatever is stated

above.

Sd/-
THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-